

**OFFICE OF TAX APPEALS  
STATE OF CALIFORNIA**

In the Matter of the Appeal of:	)	OTA Case No. 240616446
<b>P. OZBAG</b>	)	
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**OPINION**

Representing the Parties:

For Appellant:	P. Ozbag
For Respondent:	Ganeet Atwaal, Legal Analyst

A. KLETTER, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, P. Ozbag (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of \$6,219.75 for the 2019 tax year.<sup>1, 2</sup>

Appellant waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals (OTA) on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

**ISSUE**

Whether appellant has shown reasonable cause to abate the late filing penalty.

**FACTUAL FINDINGS**

- On December 22, 2020, appellant and appellant's spouse untimely filed a joint California Resident Income Tax Return (return) for the 2019 tax year. The return reported total tax of \$77,073, California income tax withholding of \$30,494, estimated tax payments of \$47,700, and overpaid tax of \$1,121. The 2019 return showed an underpayment of estimated tax penalty of \$142 and requested that \$979 be applied to the 2020 tax year.

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<sup>1</sup> Appellant's spouse jointly filed a 2019 California income tax return with appellant. However, appellant's spouse did not sign the appeal letter and did not join the appeal.

<sup>2</sup> Appellant requested a refund of \$6,540, which also includes a penalty of \$320.07 for failure to electronically pay tax (e-pay penalty). However, appellant makes no specific argument regarding the e-pay penalty; therefore, it will not be discussed further. Thus, the amount in dispute for the 2019 tax year entirely consists of the late filing penalty.

2. FTB processed the return and issued a Notice of Tax Return Change – Revised Balance, which reduced the estimated tax payments to \$21,700 to reflect its payment records. Accordingly, FTB reduced appellant's claimed overpayment to zero and showed a balance due. As relevant here, because the return was filed late, FTB imposed a late filing penalty of \$6,219.75.
3. Appellant later made payments satisfying the balance due and filed a claim for refund.
4. FTB denied appellant's claim for refund. Appellant timely appealed.

### DISCUSSION

R&TC section 19131(a) imposes a late filing penalty on a taxpayer who fails to file a return by either the due date or the extended due date unless it is shown that the failure was due to reasonable cause and not willful neglect.<sup>3</sup> When respondent imposes a late filing penalty, it is presumed to have been correctly imposed, and the burden of proof is on the taxpayer to show that reasonable cause exists to abate the penalty. (*Appeal of Cremel and Koeppele*, 2021-OTA-222P.) Appellant does not dispute that the return was filed late or the imposition of the penalty. Instead, appellant argues that the penalty should be abated because of work-related difficulties, personal hardships, and family duties in 2019 and 2020.

To establish reasonable cause, the taxpayer must provide credible and competent evidence establishing that the failure to timely file a return occurred despite the exercise of ordinary business care and prudence. (*Appeal of Cremel and Koeppele, supra.*) Illness or other personal difficulties may be considered reasonable cause if the taxpayer presents credible and competent proof that they were continuously prevented from filing a tax return. (*Appeal of Head and Feliciano*, 2020-OTA-127P.) However, if the difficulties simply caused the taxpayer to sacrifice the timeliness of one aspect of their affairs to pursue other aspects, the taxpayer must bear the consequences of that choice. (*Ibid.*) A taxpayer's selective inability to perform tax obligations, while performing their regular business operations, does not establish reasonable cause. (*Ibid*; *Watts v. Commissioner*, T.C. Memo 1999-416.)

Here, appellant was able to run appellant's business, and manage appellant's father's properties and financial affairs, indicating that appellant was capable of timely filing the return.

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<sup>3</sup> In response to COVID-19, FTB postponed from April 15, 2020, to July 15, 2020, the 2019 individual tax filing and payment due dates. (See *State Postpones Tax Deadlines Until July 15 Due to the COVID-19 Pandemic*, news release (March 18, 2020, available at <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-3-state-postpones-tax-deadlines-until-july-15-due-to-the-covid-19-pandemic.html>.) FTB's postponement did not change the original due date for the 2019 returns, upon which the automatic six-month extension to file was based, and the extension expired on October 15, 2020. (See *Appeal of Bannon*, 2023-OTA-096P.)

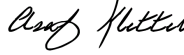
(See *Appeal of Head and Feliciano, supra.*) While appellant alleges a personal health issue, appellant does not assert incapacitation because of the health issue. (See *ibid.*) Appellant provides no evidence of steps taken to timely file the return or that appellant was continuously prevented from filing the return despite the exercise of ordinary business care and prudence. (*Ibid.*) Moreover, appellant filed a joint return with appellant's spouse. Appellant provides no evidence to show that appellant's spouse was unable to file the return where appellant was allegedly unable to file it. (*Ibid.*) Without discounting appellant's difficulties in caring for and managing the affairs of appellant's mother and father, appellant's family obligations do not constitute reasonable cause for the late filing of the return. (See *ibid.*)

#### HOLDING

Appellant has not shown reasonable cause to abate the late filing penalty.

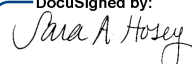
#### DISPOSITION

FTB's action denying appellant's claim for refund is sustained.

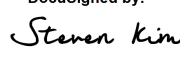
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Asaf Kletter  
Administrative Law Judge

We concur:

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Sara A. Hosey  
Administrative Law Judge

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Steven Kim  
Administrative Law Judge

Date Issued: 9/30/2025